



City of Montgomery
Alcohol Beverage
License Application

City of Montgomery, Texas
P.O. Box 708
Montgomery, Texas 77356
936-597-3288
www.montgomerytexas.gov

APPLICATION FOR THE SALE OF ALCOHOLIC BEVERAGE LICENSE

Date Received by the City: _____

1. Type of Alcoholic Beverage License:

- _____ (1) Category A – Off Premises Consumption Sale of All Alcoholic Beverages – Package Store
- _____ (2) Category B – Off Premises Consumption Sale of Wine, Beer or Ale.
- _____ (3) Category C – Off Premises Consumption Sale of Beer.
- _____ (4) Category D – On Premises Consumption Sale of Beer, Wine and Mixed beverages – Restaurant or Café, where the sale of beer, wine and mixed beverage on the premises would be incidental to the restaurant or café.
- _____ (5) Category E – On Premises Consumption Sale of Beer, Wine and Mixed beverages – Tavern, Lounge, or Bar. The sale of Beer, Wine and Mixed beverages for On-Premises Consumption being the principal business line.
- _____ (6) Category F – Warehouse storage of Beer, Wine or Liquor for Distributors – No sale of Beer for on or Off-Premises Consumption permitted on the Premises.

2. Legal Description of the property for which License is sought. (Either by Lot and Block number or by a Metes and Bounds Description: _____)

3. Exact Nature of the Business to be operated. (Must be fully described).

4. Attach a Plat of the property to the Application showing the improvements, parking areas, location of signage and other structures on the property and within three hundred (300) feet to scale.

5. Description of signs and the hours they will be operated to be attached as a separate document.

6. Attach floor plan of the building in which the business is to be conducted (showing fixtures, furniture, restrooms, kitchen and other equipment).

7. Attach a verified statement stating that the building is not within three hundred (300) feet of a church, school or hospital and that the building is in compliance with the requirements of this chapter for separate and adequate toilet facilities for men and women if used for on-premises consumption of beer, liquor or wine. This can be included in cover letter.

8. Business Owner: _____ Phone: _____
Address: _____

Home Address: _____ Phone: _____

Check if you are leasing property: []

9. Land Owner: _____ Phone: _____
Address: _____

10. Business Partners: _____ Phone: _____
Address: _____

Home Address: _____ Phone: _____

This is to certify that I, _____ have complied with all State, County, Codes and Regulations of the City of Montgomery, Texas.

Business Owner and/or Lessee or Partner if Applicable

Chapter 6 - ALCOHOLIC BEVERAGES

FOOTNOTE(S):

--- (1) ---

Cross reference— Businesses, ch. 22.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Definitions.

Unless otherwise provided, the words and phrases used in this chapter shall have the same meanings as ascribed to them by the Texas Alcoholic Beverage Code.

(Ord. No. 1989-2, § 1, 2-14-1989)

Cross reference— Definitions generally, § 1-2.

State law reference— Definitions, V.T.C.A., Alcoholic Beverage Code § 1.04.

Sec. 6-2. - Applicability of Texas Alcoholic Beverage Code and state and county regulations.

The provisions of this chapter shall be considered concurrent with or in addition to the Texas Alcoholic Beverage Code, and, where a conflict may be found to exist, the provisions of the Texas Alcoholic Beverage Code shall apply. Applicants for a city alcoholic beverage license must comply with all applicable state and county codes and regulations as well as the requirements of this chapter.

(Ord. No. 1989-2, § 22, 2-14-1989)

Sec. 6-3. - Violations; penalty.

Any person who violates any provision of this chapter, or who allows, on premises covered by his license issued under this chapter, any person to do the things prohibited by this chapter, shall be guilty of a misdemeanor and, upon conviction, shall be punished as provide in section 1-13. Any room, building, structure or place of any kind where alcoholic beverages are sold, bartered, stored, possessed or consumed in violation of this chapter or the Texas Alcoholic Beverage Code or under conditions and circumstances contrary to the purposes of this chapter or the Texas Alcoholic Beverage Code is hereby declared to be a common nuisance, and any person who maintains or assists in maintaining or permits the violation of this chapter or the Texas Alcoholic Beverage Code shall be guilty of a violation of this chapter. Action may be maintained by the city to abate and enjoin such nuisance.

(Ord. No. 1989-2, § 19, 2-14-1989)

State law reference— General penalty, V.T.C.A., Alcoholic Beverage Code § 1.05.

Secs. 6-4—6-30. - Reserved.

ARTICLE II. - LICENSE

Sec. 6-31. - Required; fee; term.

It shall be unlawful for any person to manufacture, brew, distill, sell or distribute any wine, beer, liquor or other alcoholic beverage within the city, or engage in any other activity for which a license or permit is required by the Texas Alcoholic Beverage Code, without first obtaining a license so to do from the city. The annual fee for each such license shall be an amount equal to one-half the fee charged by the state for a license or permit to engage in a similar activity. Such fee shall be paid to the tax collector and the tax collector shall provide suitable and proper blanks for issuing receipts therefor referred and shall keep a duplicate copy of all license receipts issued as part of the records of office. All license receipts issued under the terms of this section shall terminate one year from the date of issuance and no license receipt shall be issued covering a longer term than one year.

(Ord. No. 1989-2, § 2(a), 2-14-1989)

State law reference— Local fee authorized, V.T.C.A., Alcoholic Beverage Code, § 11.38.

Sec. 6-32. - State and county license required.

No applicant shall be granted a license under this article who has not first been licensed by the county and state and who fails to present satisfactory evidence of such license.

(Ord. No. 1989-2, § 2(b), 2-14-1989)

Sec. 6-33. - Persons owing delinquent taxes ineligible for license.

No license shall be issued under this article if the applicant shall owe any delinquent taxes to the city. For purposes of this section, the term "applicant" shall include each member of a partnership or association and all officers and the owner of the majority of the corporate stock of a corporation and the manager of the business for a corporation.

(Ord. No. 1989-2, § 2(c), 2-14-1989)

Sec. 6-34. - Use of license restricted to premises for which granted.

It shall be unlawful for any person licensed to sell beer, liquor or wine at retail, other than a manufacturer or distributor, to use or display a license or to exercise any privilege granted by a license except at the place, address, premises and location for which the license is granted.

(Ord. No. 1989-2, § 2(d), 2-14-1989)

Sec. 6-35. - Unlawful sales prohibited.

It shall be unlawful for any person to sell any type of alcoholic beverage, either for on-premises or off-premises consumption, except where such sale is permitted by ordinances of the city.

(Ord. No. 1989-2, § 3(a), 2-14-1989)

Sec. 6-36. - License categories.

(a) The types of categories for the sale of alcoholic beverages are hereby established as follows:

- (1) Category A: Off-premises consumption sale of all alcoholic beverages—Package store.
- (2) Category B: Off-premises consumption sale of wine, beer or ale.
- (3) Category C: Off-premises consumption sale of beer.
- (4) Category D: On-premises consumption sale of beer and wine—Restaurant or cafe, where the sale of beer and wine on the premises would be incidental to the restaurant or cafe business.
- (5) Category E: On-premises consumption sale of beer—Tavern, lounge, or bar—The sale of beer for on-premises consumption being the principal business line.
- (6) Category F: Warehouse storage of beer, wine, or liquor for distributors—No sale of beer, wine or liquor for on-premises or off-premises consumption permitted on the premises.

(b) All existing businesses heretofore approved by the city council are hereby reclassified according to subsection (a) of this section.

(Ord. No. 1989-2, § 3(b), (c), 2-14-1989)

Sec. 6-37. - Application.

(a) Written application for the sale of alcoholic beverages shall be made on forms provided by the city and filed with the city secretary. Such application shall be signed by the actual lessee or intended operator of the business for which the license is sought. The owner of the property must file a written consent to the application, unless the owner is making the application. Every such application shall contain the following:

- (1) An adequate legal description of the property for which license is sought, either by lot and block number or by a metes and bound description.
- (2) The exact nature of the business to be operated must be fully described.
- (3)

A plat of the property must be attached to the application showing the improvements, parking areas, and location of signs and other structures on the property and within 300 feet to scale.

- (4) A description of signs and the hours they will be operated.
 - (5) A floor plan of the building in which the business is to be conducted must be attached to the application, showing fixtures, furniture, restrooms, kitchen and other equipment.
 - (6) A statement giving the names, addresses and interests of all persons having a direct or indirect financial interest in the property and the business to be conducted.
 - (7) A verified statement must be attached to the application stating that the building is not within 300 feet of a church, school or hospital and that the building is in compliance with the requirements of this chapter for separate and adequate toilet facilities for men and women, if used for on-premises consumption of beer, liquor or wine.
- (b) A filing fee as fixed by TABC to defray the expenses of processing an application filed under this article must be paid when the application is filed.

(Ord. No. 1989-2, § 3(d), (f), 2-14-1989)

State law reference— Local fee authorized, V.T.C.A., Alcoholic Beverage Code § 61.36.

Sec. 6-38. - Grounds for denial.

- (a) No application under this article shall be approved:
- (1) If the applicant or application does not meet all requirements of the ordinances of the city.
 - (2) If the granting of such application shall increase the number of alcoholic beverage establishments to more than five in any one block, a block to be defined as being from intersection to intersection on both sides of the street.
 - (3) If the applicant shall owe any delinquent taxes to the city.
 - (4) If applicant has not already fulfilled all county and state requirements.
- (b) As used in this section, the term "applicant" shall mean and include each member of a partnership or association and all officers and the owner or owners of the majority of the corporate stock of a corporation and the manager of such business for a corporation.

(Ord. No. 1989-2, § 3(g), 2-14-1989)

Sec. 6-39. - Public hearing; reapplication.

After all the requirements for license application under the provisions of this article have been met, a public hearing shall be scheduled by the city clerk at a regular meeting of the city council, with at least ten days' advance written notice to be mailed to all owners of property within 200 feet of the property in question, informing them of the time and place of holding the public hearing. Such notice shall be mailed to owners as shown on the last approved tax roll of the city. If the application is not approved by the city

council, no new application may be filed for a period of one year from the date of the public hearing on the original application, unless the city council shall determine that conditions have so changed that an earlier hearing would be justified.

(Ord. No. 1989-2, § 3(h), 2-14-1989)

Sec. 6-40. - Conversion to different use.

Uses permitted under any of the categories designated in this article may not be converted to another use, but application for the new use under the provisions applicable must be made as in the case of an original application.

(Ord. No. 1989-2, § 3(i), 2-14-1989)

Secs. 6-41—6-60. - Reserved.

ARTICLE III. - REGULATIONS

Sec. 6-61. - Consumption on street, sidewalk or alley.

The drinking of any alcoholic beverage on any public street, sidewalk or alley of the city, whether afoot, as a passenger or as an operator of any vehicle, is unlawful and is prohibited. The throwing of any opened container of the type generally used for alcoholic beverages from or out of any vehicle shall be prima facie evidence that the occupant thereof was then and there drinking alcoholic beverages in violation of this section.

(Ord. No. 1989-2, § 14, 2-14-1989)

Cross reference— Streets, sidewalks and other public places, ch. 74.

Sec. 6-62. - Consumption or possession in cemeteries.

It shall be unlawful for any person to drink or have in his possession any alcoholic beverages within any cemetery located within the corporate limits of the city.

(Ord. No. 1989-2, § 15, 2-14-1989)

Sec. 6-63. - Consumption in parks prohibited during certain hours.

It shall be unlawful for any person to drink alcoholic beverages of any kind in any public park within the corporate limits of the city between the hours of 9:00 p.m. and 7:00 a.m.

(Ord. No. 1989-2, § 16, 2-14-1989)

Sec. 6-64. - Sale near church, school or hospital.

The sale of alcoholic beverages by any dealer is prohibited within 300 feet of any church, public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in direct line across intersections where they occur. This section shall not apply where the church, school, or hospital is built within 300 feet of an existing place of business where alcoholic beverages are sold.

(Ord. No. 1989-2, § 4, 2-14-1989)

Cross reference— Zoning, ch. 98.

State law reference— Authority to regulate sales near schools, churches or hospitals, V.T.C.A., Alcoholic Beverage Code § 109.33.

Sec. 6-65. - Building requirements for on-premises establishments.

No person shall sell beer, liquor or wine at or on any premises within the city for consumption on the premises where sold unless the building housing such business conforms to the following:

- (1) Has not less than 600 square feet of floorspace devoted solely to the retail portion of the operation of such business, exclusive of storage and/or restrooms.
- (2) Complies with the building code.
- (3) Complies with the electric code.
- (4) Complies with the plumbing code.
- (5) Is connected to the city sanitary sewer system for toilet facilities.
- (6) Is connected to the city water system.
- (7) Has adequate flush toilet facilities, with separate facilities for men and women in the building. Outside toilet facilities shall not constitute compliance with this requirement.
- (8) Has sufficient lighting and such lighting provides illumination to at least 25 footcandles in all areas of the premises where beer, liquor or wine is sold or consumed, according to measurements by an agent of the city.

(Ord. No. 1989-2, § 6, 2-14-1989)

Cross reference— Buildings and building regulations, ch. 18.

Sec. 6-66. - Beer establishment personnel.

- (a) No person other than the permittee or licensee shall serve beer or other drink or food to any customer or patron of a beer establishment unless the person so serving is employed by the permittee or licensee of the beer establishment.
- (b)

No person serving beer to any patron or customer of a beer establishment shall receive, as compensation, any part of the price paid by the patron or customer for such beer, nor shall his compensation be dependent on the amount served by him.

- (c) No person shall collect from any customer or patron of a beer establishment, as the price of beer, more than the price paid to the bartender or cashier by the person serving the beer.

(Ord. No. 1989-2, § 7, 2-14-1989)